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September 21 1953

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ADDRESS REPLY TO
DIRECTOR OF
ALCOHOLIC BEVERAGE CONTROL
AND REFER TO

Richard C. Gossweiler

LEGAL ADVISER
Aug 14 1953
DEPARTMENT OF STATE

DEPARTMENT OF STATE A/CDC/MR

REVIEWED BY [Signature] DATE 9-20-53

RDS ☐ or XDS ☐ EXT. DATE _____

TS AUTH. _____ REASON(S) State of New Jersey

ENDORSE EXISTING MARKINGS ☐ DEPARTMENT OF LAW AND PUBLIC SAFETY

DECLASSIFIED ☐ RELEASE ☒ DIVISION OF ALCOHOLIC BEVERAGE CONTROL

RELEASE DENIED ☐ 1060 BROAD STREET NEWARK 2, N. J.

PA or FOI EXEMPTIONS _____ August 20, 1953

WILLIAM A. CAVICCHIA
DIRECTOR

Mr. William V. Whittington
Acting Assistant for Treaty Affairs
Office of the Legal Adviser
Department of State
Washington 25, D. C.

Dear Sir:

Re: Your File
L/T 611.944/5-653

This will acknowledge your letter of August 7, 1953 together with copy of the treaty of friendship, commerce and navigation with Japan and protocol relating thereto (Senate Executive O, 83d Congress, 1st Session).

We note that the Senate's resolution of approval is subject to the following reservation:

"Article VIII, paragraph 2, shall not extend to professions which because they involve the performance of functions in a public capacity or in the interest of public health and safety, are state-licensed and reserved by statute or constitution exclusively to citizens of the country, and no most-favored-nation clause in the said treaty shall apply to such professions."

The New Jersey Alcoholic Beverage Law provides that no license of any class shall be issued to any individual who is not a citizen of the United States and that no retail license shall be issued to any corporation where any owner, directly or indirectly, of more than 10% of the corporate stock is not a citizen of the United States. New Jersey Revised Statutes 33:1-25.

The New Jersey Alcoholic Beverage Law further provides that no alien may be employed by or connected in any business capacity whatsoever with a licensee unless such alien has obtained an employment permit from the Director of the Division of Alcoholic Beverage Control. New Jersey Revised Statutes 33:1-26.

This Document Must Be Returned to
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Files
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CS/16B

RECEIVED
11 1953

DEPARTMENT OF STATE
L/T
AUG 24 1953
TREATY BRANCH
OFFICE OF THE LEGAL ADVISER
611.944/8-2053
SEN.

Mr. William V. Whittington
Acting Assistant for Treaty Affairs
Washington 25, D. C.

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August 20, 1953

We have heretofore ruled that the foregoing provisions of the New Jersey Alcoholic Beverage Law are superseded in those instances where the United States has treaties with foreign countries affording the nationals of the foreign countries the same privileges to engage in commercial and other business activities as are afforded United States citizens. Accordingly, alien nationals of such treaty countries may (a) hold licenses; (b) hold stock in licensed corporations; (c) be employed upon licensed premises without permit.

Therefore, if it were not for the quoted reservation to the contemplated treaty, we would not hesitate to hold that Japanese nationals could engage in the liquor business, as above, the same as United States citizens. We do, however, hesitate to place a construction upon the reservation which might affect its uniform application throughout the country and would sincerely appreciate your opinion as to whether or not Japanese nationals engaged in the alcoholic beverage business are engaged in "professions" within the purview of the reservation to the treaty.

May we also express our thanks for your offer to advise us of the date of exchange of the instruments of ratification.

Very truly yours,

DOMINIC A. CAVICCHIA
Director

By: *Richard C. Gossweiler*
Richard C. Gossweiler
Attorney